UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

LANDS' END, INC.

and

Case 30-CA-109700

SHEET METAL AIR RAIL TRANSPORTATION UNION, LOCAL 565-WISCONSIN, AFL-CIO

ORDER¹

The Employer's petition to revoke subpoena duces tecum B-712585 is denied. The subpoena seeks information relevant to the matter under investigation and describes with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Employer has failed to establish any other legal basis for revoking the subpoena.² See generally *NLRB v*.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

To the extent that the subpoena encompasses some documents that the Employer believes in good faith to be subject to the attorney-client or attorney work product privileges, Member Miscimarra observes that the subpoena, with which the Employer must now comply, permits the Employer to submit a privilege log identifying and describing each such document, providing sufficient detail to permit an assessment of the Employer's claim of privilege, and the Employer is directed to produce all responsive documents not subject to any good faith claim of privilege.

Member Schiffer would grant the Employer's petition to revoke as to subpoena paragraph 9, in part. That paragraph broadly requests all documentation of communications by all the Employer's managers, supervisors, and leadpersons regarding the Union's organizing campaign. The Employer objects to this request on several grounds, including relevancy. In its opposition, the Region offers no rationale for its wideranging request; in fact, the Region does not address subpoena paragraph 9 at all. In those circumstances, Member Schiffer would revoke paragraph 9 to the extent it seeks documents beyond those relating to the Union's leafleting activities; documents concerning the latter were discussed by the parties in their efforts to achieve voluntary compliance and clearly relate to allegations concerning the Employer's solicitation and distribution policy.

To the extent that the Employer has provided some of the requested material, it is not required to produce that information again, provided that the Employer accurately describes which documents under subpoena it has already provided, states whether those previously-supplied documents constitute all of the requested documents, and provides all of the information that was subpoenaed.

North Bay Plumbing, Inc., 102 F.3d 1005 (9th Cir. 1996); NLRB v. Carolina Food Processors, Inc., 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., April 9, 2014.

MARK GASTON PEARCE, CHAIRMAN

PHILIP A. MISCIMARRA, MEMBER

NANCY SCHIFFER, MEMBER